IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6680 of 1987

with

CIVIL APPLICATION No 1579 of 1988

with

SPECIAL CIVIL APPLICATION No 2830 of 1987

with

SPECIAL CIVIL APPLICATION No 446 of 1988

with

SPECIAL CIVIL APPLICATION No 2915 of 1990

with

SPECIAL CIVIL APPLICATION No 6409 of 1988

with

SPECIAL CIVIL APPLICATION No 5673 of 1990

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

K P MACHHAR

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 6680 of 1987
   MR MR ANAND for Petitioner No. 1-11
   MR PRADIP BHATE A.G.P. for Respondent No. 1-2
2. Special Civil Application No. 2830 of 1987
   MR MR ANAND for Petitioner No. 1
   MR PRADIP BHATE A.G.P. for Respondent No. 1
3. Special Civil Application No. 446 of 1988
   MR MR ANAND for Petitioner No. 1-5
   MR PRADIP BHATE A.G.P. for Respondent No. 1
   MR PV HATHI for Respondents Nos.2-5
4. Special Civil Application No. 2915 of 1990
   MR MR ANAND for Petitioner No. 1-4
   MR PRADIP BHATE A.G.P. for Respondent No. 1-2
5. Special Civil Application No. 6409 of 1988
   MR MR ANAND for Petitioner No. 1
   MR PRADIP BHATE A.G.P. for Respondent No. 1-2
6. Special Civil Application No. 5673 of 1990
   MR MR ANAND for Petitioner No. 1
   MR PRADIP BHATE A.G.P. for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 26/07/2004

ORAL COMMON JUDGEMENT

1.0. In this group of petitions, common issue raised by the petitioners is with regard to the seniority. Hence, they are heard together and they are now being disposed of by this common judgment.

2.0. In these petitions, the petitioners who were Scheduled Tribe employees were ultimately promoted to the post of Mamlatdar in the years 1985 and 1986 within their quota. However, later, though they were within their quota, they were sought to be reverted on the ground of their juniority in the post of promotion and by applying the principle of "last come, first go". According to the petitioners, since their promotion was within their quota, they could not have been so reverted. The orders of their reversions were stayed by interim relief which

was granted in these petitions and which has remained operative.

2.1. The question involved in this petition directly arose before a Division Bench of this Court in the case of R.K. Prajapati & Ors. v. State of Gujarat & Ors. reported in 1992 (Vol. XXXIII) [2] G.L.R. p.1422. In paragraph 57 of the judgment, the Court held that the general rule of seniority had to be departed from, so far as Scheduled Caste/ Scheduled Tribe category of employees were concerned and that immunity can be claimed by such employees from reversion, even though they may be junior in the promotional cadre.

3.0. In view of the fact that the question involved in these petitions is now directly covered by the decision of this Court in the case of R.K. Prajapati (Supra), Mr. Pradip Bhate learned A.G.P. appearing for the respondent-authorities states that the petitioners case will be considered and dealt with, as per the ratio of the said decision, if not already so dealt with. The learned advocate appearing for the petitioners states that the point is now concluded and the case of the petitioners may be considered and dealt with, as per the ratio of the said decision.

4.0. In that view of the matter, the petitioners who are already protected by order of this Court and those who are working on the post of Deputy Mamlatdar, the following directions will serve the purpose of the petitioners.

4.1. The respondent-authorities will decide the seniority of the petitioners keeping in mind the ratio laid down in the case of R.K. Prajapati v. State of Gujarat (Supra), within three months from the date of receipt of writ of this order. Till the issue is decided, the petitioners shall be allowed to work on the post on which they are working.

5.0. Subject to the aforesaid direction, the petitions are disposed of. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

CIVIL APPLICATION No 1579 of 1988

In view of the order passed in the main matter, this Civil Application does not survive and it is disposed of accordingly.

[K.S. JHAVERI, J.]

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